

The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GREGORY HAGAN MOULTON
AND STEPHEN B. WHITEHILL

Appeal 2007-0243
Application 09/777,002
Technology Center 2100

Decided: September 21, 2007

Before KENNETH W. HAIRSTON, ALLEN R. MACDONALD,
and SCOTT R. BOALICK, *Administrative Patent Judges*.
HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1 to 7 and 12 to 30. We have jurisdiction under 35 U.S.C. § 6(b).

We will sustain the rejection.

STATEMENT OF THE CASE

Appellants have invented a data storage system wherein one or more storage nodes is selected to serve a data storage request based at least in part on the particular context associated with each of the storage nodes (Figure 6; Specification 6, 7, and 21).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A data storage system comprising:
a plurality of storage nodes, each node existing at a physical location and having one or more associated contexts including a political context, an economic context, a geographical context or a network topological context;
interface mechanisms coupled to each storage node for communicating storage access requests with the storage node; and
data storage management processes that select one or more of the storage nodes to serve a data storage request based at least in part upon the particular contexts associated with each of the storage nodes.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

McClain	US 5,794,254	Aug. 11, 1998
Carter	US 5,987,506	Nov. 16, 1999

The Examiner rejected claims 1 to 7 and 13 to 30 under 35 U.S.C. § 103(a) based upon the teachings of Carter. The Examiner rejected claim 12 under 35 U.S.C. § 103(a) based upon the teachings of Carter and McClain.

Appellants contend that Carter is directed to a method of accessing a shared memory structure comprised of a number of nodes by a plurality of clients, and that Carter does not use context in the servicing of a data storage request (Br. 5 to 8).

The Examiner acknowledges that “Carter fails to expressly disclose such contexts/data including political, economic, geographic, or topological context,” but concludes “it is clear Carter teaches data storage management processes that select one or more of the storage nodes to serve a data storage request based at least in part upon the particular contexts associated with each of the storage nodes since conventional data storage management processes need to determine where, or to which node or nodes, the requested data should be stored, (i.e. conventional data storage management processes need to first know where data is stored before the storage management processes select the location to store updates to the data), (Carter, col. 6, lines 3-21, and col. 7, lines 42-60)” (Answer 13 and 14). Thus, the “Examiner maintains it was well known in the art at the time of the claimed invention for storage nodes to contain context including political, economical, geographical, and topological context” (Answer 13).

ISSUE

Does the context associated with a storage node patentably distinguish the claimed invention over an ordinary storage node in the applied prior art?

FINDINGS OF FACT

As indicated *supra*, Appellants describe a method and apparatus in which each of a plurality of storage nodes is associated with one or more contexts (e.g., a political context, an economic context, a geographical context or a network topological context). During a storage process, one or more of the storage nodes is selected to service a data storage request based at least in part upon the particular contexts associated with each of the storage nodes.

Carter describes a data storage system that comprises a plurality of nodes with each node existing at a physical location, an interface mechanism coupled to each storage node for communicating storage access requests with the storage nodes, and a data storage management process that selects one or more of the storage nodes to serve a data storage request (col. 6, ll. 3 to 21).

McClain was cited by the Examiner for a teaching of “backing up computer files at a remote site comprising: encrypting a storage message before communicating, (col. 6, lines 48-53)” (Answer 12).

PRINCIPLES OF LAW

The Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The Examiner’s articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

Nonfunctional descriptive material carries no weight in the analysis of patentability over prior art applied by the Examiner. *In re Lowry*, 32 F.3d 1579, 1583, 32 USPQ2d 1031, 1034 (Fed. Cir. 1994). Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious. *In re Ngai*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004).

ANALYSIS

We agree with the Examiner that a user at a node would communicate storage access requests with a storage node that stores data of relevance to the user (e.g., a politician would store and retrieve data from a node that has political relevance to the politician, and an economist would more than likely access a storage node that stored economic data). Accordingly, we agree with the Examiner that it would have been well known to the skilled artisan for a data storage management process to select a storage node based at least in part upon the particular context associated with the storage node (i.e., particular data is stored at a certain storage node location, and similar data would be accessed at that same storage node location).

Although we agree with the Examiner that the context associated with the storage nodes would have been obvious to the skilled artisan, we additionally find that the claimed contexts (i.e., political, economic, geographical or network topological) are not functionally related to the storage nodes. The claimed contexts are mere labels placed on the storage nodes. Thus, the noted contexts can not render nonobvious an otherwise obvious invention.

In summary, the obviousness rejection of claim 1 is sustained because it is well known in the art to store data at a storage node based upon a shared interest. The obviousness rejection of claims 5, 14 and 15 is sustained because the skilled artisan would have known to store and access data at a particular located based upon “desired criteria.” The same is true for the “logical volume of data” presented for storage in claims 6 and 7. Claim 22 is sustained for all of the reasons expressed *supra* for claim 1. With respect to claim 27, we agree with the Examiner that it would have been obvious for Carter to maintain state information for each of the storage nodes (Answer 19).

The obviousness rejection of claims 2 to 4, 13, 16 to 21, 23 to 26, and 28 to 30 is sustained because Appellants have not presented any patentability arguments for these claims apart from the arguments presented for claim 1.

The obviousness rejection of claim 12 is sustained for all of the reasons expressed *supra* in connection with claim 1.

CONCLUSION OF LAW

The Examiner has demonstrated the obviousness of claims 1 to 7 and 12 to 30.

ORDER

The obviousness rejections of claims 1 to 7 and 12 to 30 are affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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